

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2001-223

May 8, 2007

PUBLIC UTILITIES COMMISSION
Maine Telecommunications Education
Access Fund

ORDER

ADAMS, Chairman; REISHUS and VAFIADES, Commissioners

I. SUMMARY

In this Order, we approve the Maine Telecommunications Education Access Fund (MTEAF) Advisory Board's (Board) recommendations to the Commission, made pursuant to Chapter 285 § 6(B), concerning collection and spending for the MTEAF (Fund) from July 2007 through June 2008.

II. APPROVAL OF MTEAF FUNDING FOR 2007 – 2008

Title 35-A M.R.S.A. § 7104-B(4) requires that MTEAF funds be used to provide discounts to qualified schools and libraries for the following: telecommunications services; internet access; internal connections; computers; training; and content. Chapter 285 § 6(B) of our Rules requires the MTEAF Advisory Board to recommend to us annually the services that should be funded for the upcoming year, the funding level, and the overall amount to be assessed by carriers. Based on the recommendation of the Board, we approve the following collection and spending for the MTEAF from July 1, 2007 through June 30, 2008.

A. Basic Program Elements

We will continue to fund T-1 frame relay connections and internet service at no cost to all qualified schools and libraries pursuant to 35-A M.R.S.A. § 7104-B(1) (referred to as MSLN). We will also continue to provide funding for ATM sites, Circuit Riders, Fogler Library databases, and administrative costs, as further described below.

B. Assessments by Carriers

Title 35-A M.R.S.A. § 7104-B(3)(A) requires the Commission to annually establish an amount of up to 0.7% of retail charges, to be collected by intrastate carriers for the MTEAF. Chapter 285 § 2(B) requires the Commission, in establishing the amount to be collected, to consider the needs of schools and libraries, the amount collected in the previous year and the impact on ratepayers, particularly when integrated with any State Universal Service Fund. The Board requests the assessment continue at the 0.7% level. Currently, 0.7% produces revenues of approximately \$4,100,000 annually. The Board projects MTEAF expenses for 2007-2008 at approximately \$6 million, with Federal E-Rate paying approximately \$2 million. The Board projects a

surplus at the end year of around \$360,000, if all E-Rate funds are received as projected. Given the uncertainty about the precise amount of E-Rate funding and the timing of the funding, we find it is prudent to continue the assessment at 0.7%.

We will monitor the MTEAF cash flow and attempt to reduce the assessment if possible. All intrastate carriers also currently contribute to the Universal Service Fund at a rate of 1.35% (or 0.0135) of each carrier's intrastate retail revenues, pursuant to Chapter 288 § 4(6). We prefer to keep the MTEAF assessment as low as possible, given this additional USF assessment. However, to provide support for essential services to schools and libraries and given the delays in receiving Federal E-Rate funding, we find it necessary to assess carriers at the maximum level of 0.7%.

C. Innovative and Technologically Advanced Program

Title 35-A M.R.S.A. § 7104-B(5) requires that "[a] minimum of 25% of each annual program budget must be devoted to targeted projects that are innovative and technologically advanced." We previously met this requirement by funding ATM, DSL and the Maine Laptop Initiative. The latter two are funded by MTEAF. Our funding for ATM connections for schools and libraries continues to support an innovative and technologically advanced service, but falls short of the 25% target. The Department of Education (DOE) Maine and State Library (MSL) should suggest ways to meet this requirement in time for implementation prior to our approval of the 2008-2009 Plan.

D. Circuit Riders

The MSLN currently supports two "circuit riders" who are available by phone, e-mail, and onsite visits to assist schools and libraries. Feedback on this program has continued to be extremely positive, especially for small schools and libraries. The Board proposes continuation at a cost of \$159,960 annually, and we accept that recommendation.

E. Raymond H. Fogler Library at the University of Maine – Digital Library

As we have done in the past, we will provide \$500,000 in 2007 – 2008 to allow Fogler Library to purchase access to electronic databases for citizens statewide, as permitted by 35-A M.R.S.A. § 7104-B. We request that prior to our approval of next year's plan, that the MSL and DOE provide further support for this recommendation, including whether it is the best use of MTEAF funds.

F. Asynchronous Transfer Mode (ATM)

Approximately 91 high schools have ATM connections for voice, data (instead of a T-1 line) and video. These sites pay \$2,075 per month for this service and each site applies for Federal E-Rate (with discounts ranging from 20% to 90%). Because the sites use their ATM in lieu of a T-1, we have provided financial support from the MTEAF to cover some costs not paid for by Federal E-Rate. The Commission chose \$358 per month as an estimate of half the amount remaining after applying the average school E-Rate discount, which for these high schools is 66%. Therefore, \$358

continues to represent approximately half the amount owed after E-Rate is applied, and we will maintain that level of support.

Beginning in 2001, we also agreed to provide financial support for elementary and middle schools that are close enough to an ATM site that they can share the connection. These are sites that otherwise would have been eligible for their own T-1 or 56 Kbps. We agreed with the Board's recommendation that these shared sites continue to receive MTEAF funds in the amount for which they would otherwise be eligible, up to an amount not to exceed the monthly cost of the ATM connection where all the sites' credits are taken together.

The total cost for ATM support in 2007-2008 is expected to be \$450,000. We agree with the Board's recommendation that this support should continue.

G. Administration

We authorize the expenditure of \$30,000 to pay for a fund administrator to assess carriers, collect funds from carriers and make payments from the Fund (as permitted by 35-A M.R.S.A. §§ 7104-B(2) and 7104(3)). We also authorize the expenditure of funds to continue paying for a consultant to help with the E-Rate application process. We have approved funding of \$184,000 a year for this contract the past two years. This extra assistance has been instrumental in MSLN receiving Federal E-Rate on a more timely basis with fewer sites being eliminated from the application due to errors. We will approve funding up to this amount for 2007-2008. We ask DOE and MSL to provide information in next year's funding request to justify this continued expenditure.

H. Libraries Choosing Not to Filter

In 2004, the Legislature amended 35-A M.R.S.A. § 7104-B(6) to allow public libraries to decline Federal E-Rate for internet service if they determine that applying for E-Rate (e.g., complying with E-Rate's filtering requirements) would substantially compromise the library's standards or mission. The statute allows the Commission to mitigate the loss of Federal E-Rate funds using the MTEAF.

Since the 2004-2005 program year, we have allowed non-filtering libraries to contribute \$25 per month toward the cost of internet service with MTEAF paying the remainder of the amount that would typically be paid for by Federal E-Rate. Under the current UNET contract, internet service costs \$105 per month. Assuming E-Rate will pay 63% of the cost of internet service for filtering libraries, MTEAF will provide a \$41.15 per month additional subsidy to these non-filtering libraries. Currently, 53 libraries have chosen not to filter. Therefore, this additional subsidy will cost MTEAF \$26,171 annually.

I. MSLN Project Administration

On November 1, 2006, we approved a request of the Board that one of the then three circuit rider positions be eliminated and the savings be used to fund a project manager for the Maine School and Library Network. The manager reports directly to the Director of the Maine State Library and the Commissioner of Education. A manager was hired beginning April 1, 2007. We continue to approve funding of up to \$79,800 for this position.

III. DELEGATION

We delegate to our General Counsel or her designee the authority to direct the MTEAF administrator to make disbursements from the fund consistent with this Order.

Dated at Augusta, Maine, this 8th day of May 2007.

BY ORDER OF THE COMMISSION

Karen Geraghty
Administrative Director

COMMISSIONERS VOTING FOR: Adams
Vafiades

COMMISSIONER ABSENT: Reishus

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.